

matter. In particular both Group I and Group II claims recite the same common feature directed to a salient feature of the invention, namely, there being a gap between at least a portion of the separator and the cathode. The Examiner, thus, may likely search art related to both Group I and Group II claims regardless of which group is elected. It would, therefore, be most efficient to prosecute this application in its entirety in that any restriction in this case would cause duplicity of effort by the Patent and Trademark Office as well as Applicant's Counsel. Withdrawal of the restriction requirement between Group I and II claims is requested on this basis. Nevertheless, Applicant reserves the right to file a Divisional Application for the non-elected Group II claims.

The Examiner has also indicated that with respect to the Group I claims the reply must include an election of Species I, claims 1-11 or Species II, claims 12-22, or Species III, claims 23-32. With such election prosecution on the merits will proceed if no generic claim is finally held to be allowable. (Applicant notes this procedure is referenced in MPEP 806.04 and 37 CFR 1.141.) The Examiner points out that upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all of the limitations of an allowed generic claim as provided by 37 CFR 1.141. The Examiner states that if claims are added after the election, Applicant must indicate which are readable upon the elected species. MPEP 809.02(a).

The Species I, II, and III claims are closely related, contain a common feature of the invention, and are thus not true species claims. Accordingly Applicant believes that they could be examined together, since the same art would likely be

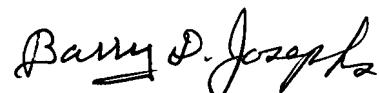
searched regardless of the species elected. However, in response to the Examiner's requirement as to identification of election of species, Applicant elects Species II, claims 12-22.

The restriction requirement is believed traversed and withdrawal of the restriction respectfully requested. That notwithstanding, Applicant has elected Group I claims 1-32 and Species II, claims 12-22. Further prosecution of the Application is requested.

Authorization is hereby given to debit Deposit Account 502271 for any amount owing or credit the same account for any overcharges in connection with this communication.

Date: April 6, 2007

Respectfully submitted,



Barry D. Josephs
Attorney At Law
19 North St.
Salem, Mass. 01970

Barry D. Josephs
Reg. No. 27,140
Tel. 978-741-7999